

DEPARTMENT OF FOOD AND AGRICULTURE

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**NOTICE OF PUBLIC HEARINGS TO CONSIDER AMENDMENTS TO THE
POOLING PLAN FOR MARKET MILK AND THE STABILIZATION AND
MARKETING PLANS FOR MARKET MILK FOR THE NORTHERN
CALIFORNIA AND SOUTHERN CALIFORNIA MARKETING AREAS**

Notice is hereby given that the California Department of Food and Agriculture is calling a public hearing to consider amendments to the milk movement incentives as provided in the Pooling Plan for Market Milk (Pooling Plan) and the Stabilization and Marketing Plans for Market Milk for the Northern California and Southern California Marketing Areas (Stab Plans).

Hearing Dates, Places and Times - The hearing will be held on August 4, 2004, at the Holiday Inn Capitol Plaza, 300 J Street, Sacramento, in the California Room. The hearing will begin at 9:00 a.m.

The hearing is being called pursuant to Articles 7 and 8, Chapter 2, Part 3, Division 21 of the Food and Agricultural Code (FAC), as implemented by Title 3, Section 2080.2 of the California Code of Regulations (3 CCR 2080.2).

Petition Received by the Department - The Department of Food and Agriculture received a petition on June 1, 2004 from Clover Stornetta Farms, Inc. The petition regards proposed amendments to the transportation allowance system in the Pooling Plan.

The petition for a hearing to amend the Pooling Plan is considered pursuant to FAC Sections 62031 through 62079, Section 62717 and Section 2080.2 of the California Code of Regulations (3 CCR 2080.2). A copy of this petition can be obtained by contacting the Dairy Marketing Branch at (916) 341-5988 or by accessing the Department's web site at www.cdfa.ca.gov/dairy. From the dairy home page, click on *Announcements, Hearings and Statutes* then *Dairy Hearing Matrix* and then go to #7, *Transportation Allowance*.

The Secretary may call a hearing to adopt, amend or terminate Plans on the Secretary's own motion (FAC Section 62032) or upon receipt of a petition from any interested party (3 CCR 2080.2). The hearing noticed herein will be conducted in accordance with the procedures prescribed in 3 CCR 2080.4.

Call of Hearing - The hearing will consider the petitioner's proposal to amend the Pool Plan in effect on August 4, 2004 to amend transportation allowances for milk moving into Marin and Sonoma Counties. In addition, the hearing will consider proposals to amend the Pooling Plan and the Stab Plans in effect on August 4, 2004 that provide incentives to move milk to higher usages (Reference FAC Section 62074.5). These include provisions for transportation allowances (Reference Article 9.2, beginning with Section 920 of the Pooling Plan), transportation credits

(Reference Section 300.2 of the Stab Plans) and the milk movement requirements (Reference Article III, Section 300.3(F) and Article V, beginning with Section 500.0 of the Stab Plans, also reference Article 1, Sections 100.7 through 100.10 of the Stab Plans and Article 1, Sections 106.1 through 106.4 of the Pooling Plan).

The hearing will also consider the factual basis, evidence and the legal authority upon which to make any and/or all of the proposed amendments to the Plans.

Interested parties should also refer to the pricing criteria established in FAC Article 9, Chapter 2, of Part 3, Division 21, and the statutes establishing and governing operation of the Pooling Plan set out in FAC Chapters 3 and 3.5, Part 3 of Division 21. Interested parties should also review the declarations, purposes, goals and requirements of the Milk Stabilization Program as codified in FAC Chapter 2 and FAC Sections 62062, and 62063. Interested parties should also review the declarations, purposes, goals and requirements of the Milk Pooling Program as codified in those Chapters referenced above and FAC Sections 62700, 62701, 62702 and 62702.1.

Alternative Proposals - Interested parties are encouraged to submit proposals detailing alternative proposals to the petition; alternative proposals must be within the call of the hearing. Proposals should be mailed to 1220 N Street, Sacramento, CA 95814 or faxed to (916) 341-6697. Proposals must be received by the Department's Dairy Marketing Branch by 4:00 p.m. on July 7, 2004.

At the hearing the Department will receive testimony and evidence, both oral and written. Interested parties who wish to introduce testimony and/or exhibits shall provide the Hearing Officer at the hearing with six (6) copies of such documents for the official record. Additional copies for use by hearing participants are always appreciated.

Final Decisions Resulting from the Hearing - The final decisions resulting from this hearing will be issued in accordance with the procedures and criteria contained in Chapter 2 and/or Chapter 3 and 3.5 of Division 21 of the FAC, as necessary.

The Department's decision will also include consideration of the following:

- the appropriate level of transportation allowances and credits for the various regions of the state to ensure sufficient bulk milk supplies for Class 1 usages to attract the nearest milk supplies to fulfill the Class 1 needs, and to minimize the cost to the Pool, while maintaining equity among producers in different regions of the state;
- whether prices will insure an adequate and continuous supply, in relation to demand, of pure, fresh, wholesome market milk for all purposes, including manufacturing purposes, at prices to consumers which, when considered with relevant economic criteria, are fair and reasonable;
- whether prices, including the prices of components of milk, established by the Secretary for the various classes of market milk bear a reasonable and sound economic relationship to each other;
- whether the amendments would be in accord with all the purposes, policies, and standards contained in Sections 61801, 61802, 61805, 61806, 61807, 62074.5, 62076, and 62077;
- whether amendments to the Pooling Plan are necessary to effectuate the purposes of Chapters 3 and 3.5 of Part 3 of Division 21 of the FAC;

- whether proposed Pooling Plan amendments would result in payments to producers of amounts in accordance with FAC Section 62750;
- whether proposed Pooling Plan amendments are substantive in nature thereby requiring a statewide referendum in accordance with FAC Section 62717;
- whether the amendments would be in accord with all policies, purposes, goals and standards contained in Sections 62700, 62701, 62702, 62712, and 62714;

Ex Parte Communications Prohibited - From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, the Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. Procedural matters are not subject to the above prohibition and may be discussed at any time.

Public Workshop - To assist interested persons in preparing for these hearings, a public workshop will be held in Sacramento on July 20, 2004. The workshop will be held at the Holiday Inn Capitol Plaza, 300 J Street, Sacramento, in the Grenada Room beginning at 9:00 a.m. At this workshop, interested persons can review and discuss all proposals submitted with Department staff and other interested parties. The Department will supply background and analysis of alternative proposals. Discussion during the workshop will not be part of the official hearing record.

The Department's entire hearing exhibit for these hearings will be available for public inspection at the Sacramento office of the Dairy Marketing Branch on July 28, 2004.

If any interested party has questions regarding the call of these hearings or needs assistance in developing language for a proposal, please contact Eric Erba or Tom Gossard at (916) 341-5988.

All interested persons are invited to attend and participate in both the public workshop and the hearing. Interested parties are encouraged to present any data or information that is relevant to the consideration of the issues raised in the call of this hearing.

Persons with Disabilities: The Department of Food and Agriculture wishes to ensure that all members of the public have access to all public meetings. If you require a special accommodation, please contact Cheryl Gilbertson at (916) 341-5988 or TDD (800) 735-0193 at least five days prior to the workshop or hearing date.

Original Signed By:

June 15, 2004

Date

Kelly Krug, Director
Division of Marketing Services